

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL JERMAINE POLNETT,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C14-5830 RBL

ORDER DENYING MOTION TO
APPOINT COUNSEL

[DKT. #2]

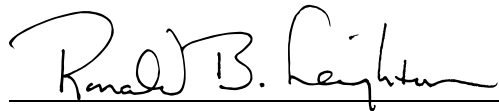
THIS MATTER is before the Court on Petitioner Polnett's Motion to Appoint Counsel. Polnett argues that an attorney was appointed for his criminal trial, and he remains incarcerated and indigent. But his §2255 petition is a civil matter, not a criminal one. Defendants do not have a constitutional right to counsel when mounting collateral attacks upon their convictions. *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990). Nor is there a statutory right to have a court-appointed attorney in a collateral attack on a criminal conviction or sentencing, at least until the Court determines that he petition requires an evidentiary hearing. *See* Rule 8, Rules Governing § 2255 Proceedings:

If an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A.

1 Under this authority, a §2255 petitioner is entitled to a court-appointed attorney when an
2 evidentiary hearing is required, and he may be entitled to a court-appointed attorney “where the
3 interests of justice so require.” U.S.C. § 3006A(a)(2)(B). Polnett has not yet demonstrated that
4 the interests of justice require the appointment of counsel in this case, and his Motion for the
5 appointment of counsel is DENIED without prejudice.

6 IT IS SO ORDERED.

7 Dated this 4th day of November, 2014.

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10 RONALD B. LEIGHTON
11 UNITED STATES DISTRICT JUDGE
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